

(1) Except for offenses over which a special trial counsel has exercised authority and has not deferred, each commander has discretion to dispose of offenses by members of that command in accordance with this rule.

(2) Ordinarily the immediate commander of a person accused or suspected of committing offenses over which a special trial counsel has not exercised authority or has deferred initially determines how to dispose of those offenses. A superior commander may withhold the authority to dispose of offenses in individual cases, types of cases, or generally. A superior commander may not limit the discretion of a subordinate commander to act on cases over which authority has not been withheld.”

(p) R.C.M. 306(c) is amended to read as follows:

“(c) *Disposition of offenses.* Within the limits of the commander’s authority and subject to R.C.M. 306A, a commander may take the actions set forth in this subsection (R.C.M. 306(c)) to initially dispose of a charge or suspected offense.

(1) *No action.* A commander may decide to take no action.

(2) *Administrative action.* A commander may take or initiate administrative action, in addition to or instead of other action taken under this rule, subject to regulations of the Secretary concerned.

(3) *Nonjudicial punishment.* A commander may consider the matter pursuant to Article 15, nonjudicial punishment. *See* Part V.

(4) *Disposition of charges.* Charges may be disposed of in accordance with R.C.M. 401.

(5) *Forwarding for disposition.* A commander may forward a report of suspected offenses or charges to a superior or subordinate authority for disposition.”

(q) R.C.M. 306(e)(1) is amended to read as follows:

“(1) For purposes of this subsection (R.C.M. 306(e)), a “sex-related offense” means any allegation of a violation of Article 120, 120b, 120c, or 130, or any attempt thereof under Article 80, occurring on or before December 27, 2023.”

(r) A new R.C.M. 306A is inserted immediately after R.C.M. 306 to read as follows:

“Rule 306A. Initial disposition of offenses over which a special trial counsel exercises authority

(a) *Disposition of offenses that are not the subject of preferred charges.* Once a special trial counsel has exercised authority over an offense, only a special trial counsel may dispose of that offense, unless a special trial counsel defers the offense. For each offense over which a special trial counsel has exercised authority that is not the subject of a preferred charge, a special trial counsel shall:

(1) Prefer, or cause to be preferred, a charge; or

(2) Defer the offense by electing not to prefer a charge. If a special trial counsel defers the offense, the special trial counsel shall promptly forward the offense to a commander or convening authority for disposition, and the commander or convening authority shall dispose of the offense pursuant to R.C.M. 306.

(b) *Disposition of a preferred specification.* A special trial counsel shall dispose of each preferred specification in accordance with R.C.M. 401A.

(c) *National security matters.* If a commander believes trial would be detrimental to the prosecution of a war or harmful to national security, the matter shall be forwarded to the Secretary concerned for action.

(d) *Sex-related offenses.*